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Opinions adopted by the Working Group on Arbitrary Detention at its eighty-first session, 17–26 April 2018

Opinion No. 19/2018 concerning Arash Sadeghi (Islamic Republic of Iran)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 33/30.

2. In accordance with its methods of work (A/HRC/36/38), on 11 December 2017, the Working Group transmitted to the Government of the Islamic Republic of Iran a communication concerning Arash Sadeghi. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

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Submissions

Communication from the source

4. Mr. Sadeghi is a 34-year-old Iranian national. At the time of his first arrest, Mr. Sadeghi was a student at Allameh Tabataba'i University and resided in Tehran.

5. On 9 July 2009, Mr. Sadeghi, together with a number of other students, peacefully protested in front of his university against the results of the presidential election. During that protest, Mr. Sadeghi was arrested by Ministry of Intelligence officials. The source alleges that he was taken to Ward 209 of Evin Prison, interrogated and tortured for 90 days. He was subsequently released on bail.

6. On 23 December 2009, Mr. Sadeghi was arrested again in front of his residence. He was taken to Ward 209 of Evin Prison, and released on bail on 14 March 2010. Five days after his release, Mr. Sadeghi was again arrested due to his activism. He was taken to Ward 209 of Evin Prison and kept there until 13 June 2010. On that day, Branch 26 of the Revolutionary Court announced his preliminary sentence to be five years' imprisonment for "assembly and collusion against the regime", as well as one year's imprisonment for conducting "propaganda against the system".

7. On 23 October 2010, Mr. Sadeghi was granted furlough on bail. According to the source, Mr. Sadeghi did not return to prison at the end of the furlough, and the security forces raided his home at midnight. Only Mr. Sadeghi's mother and another female relative were present at the time. The source alleges that the security forces broke down the door of his home and attacked them. Mr. Sadeghi's mother was hit on the head with a baton, which caused her to suffer a brain haemorrhage. At the time of the raid, Mr. Sadeghi's mother also suffered a heart attack, which caused her death four days later.

8. After his mother's funeral, Mr. Sadeghi was summoned to Ward 209 of Evin Prison, where he spent a further 24 days. He was then transferred to Ward 350 of the same prison. Approximately one year later, after repeated appeals by Mr. Sadeghi, the Court of Appeal handed down a four-year suspended sentence for the charge of "assembly and collusion against the regime", and one year in prison for conducting "propaganda against the system". The source alleges that, during his first trial, Mr. Sadeghi had no access to legal counsel.

9. On 14 December 2011, after spending a total of 27 months in prison, Mr. Sadeghi was released. However, one month later, on 15 January 2012, Mr. Sadeghi was again arrested by security agents. According to the source, that arrest followed Mr. Sadeghi's enquiries about his earlier complaint concerning the death of his mother. The source alleges that Mr. Sadeghi received threatening telephone calls and was later arrested. His family did not receive any information about him for 18 months. During that period of time, Mr. Sadeghi was detained in Wards 209 and 240 of Evin Prison, where he was interrogated and tortured. The source claims that the authorities attempted to extract a statement from Mr. Sadeghi that his mother had died of natural causes. The authorities also attempted to force Mr. Sadeghi to withdraw his complaints regarding his mother's case while he was being recorded on video. On 12 October 2013, Mr. Sadeghi was released on bail.

10. In February 2014, Mr. Sadeghi got married. He was banned from continuing his studies for a Master's degree in philosophy, so he opened a stationery shop with a former cellmate. On 6 September 2014, Mr. Sadeghi was arrested again, together with his wife, his business partner and another friend. He was taken to Ward 2A of Evin Prison. The source states that Ward 2A is under the supervision of the Revolutionary Guard and not the judiciary. The source alleges that Mr. Sadeghi was interrogated for seven months by intelligence officers. During the first month following his arrest, he could hear the interrogation of his wife, which deeply affected him. The source reports that Mr. Sadeghi spent over six months in solitary confinement in Ward 2A and several days in Ward 8 of Evin Prison. On 14 March 2015, he was released on bail.

11. According to the source, Mr. Sadeghi's trial took place in May 2015 and on 21 July 2015 at Branch 15 of the Revolutionary Court. During the trial, Mr. Sadeghi was denied access to his lawyer. The source alleges that Mr. Sadeghi's lawyer contacted the presiding

judge on several occasions and requested to see his client's file. However, all the lawyer's requests were repeatedly denied and he was not allowed to be present at the trial hearings.[1]

12. On 21 August 2015, the Revolutionary Court sentenced Mr. Sadeghi to a total of 15 years' imprisonment. He was sentenced to seven and a half years' imprisonment for "assembly and collusion in the form of propaganda against the State" (article 610 of the Islamic Penal Code); three years' imprisonment for "insulting the founder of the Islamic Republic of Iran" (article 514 of the Islamic Penal Code); three years' imprisonment for "publishing lies in cyberspace" (article 18 of the Cyber Crime Law), and eighteen months' imprisonment for "propaganda against the regime" (article 500 of the Islamic Penal Code). The source notes that article 500 of the Islamic Penal Code is frequently used by the authorities to restrict the peaceful exercise of the rights to freedom of expression, assembly and association.

13. On 22 December 2015, the Court of Appeal of Branch 54 of the Revolutionary Court in Tehran examined Mr. Sadeghi's appeal. On that occasion, Mr. Sadeghi was granted access to a lawyer. The Court of Appeal upheld the original verdict.

14. The source reports that the most recent arrest of Mr. Sadeghi occurred on 7 June 2016, when he went to the court in Evin Prison following a summons letter that had been sent to the wrong address.[2] Mr. Sadeghi was arrested in court and taken to Ward 2A of Evin Prison. Mr. Sadeghi was then transferred to Ward 8 of Evin Prison.

15. Mr. Sadeghi's total sentence is 19 years' imprisonment. In addition to the sentence of 15 years' imprisonment upheld on 22 December 2015, Mr. Sadeghi was ordered to serve the four-year suspended sentence handed down by the Court of Appeal in 2010 during his previous trial. However, under article 134 of the Islamic Penal Code, which limits sentences for individuals charged with multiple offences to the maximum sentence for the most serious charge, Mr. Sadeghi's actual time in prison should be limited to seven and a half years.

16. On 18 October 2017, Mr. Sadeghi was transferred from Evin Prison in Tehran to Rajai Shahr Prison. The source alleges that he was beaten during the transfer. The source submits that forcing an individual to serve a sentence in a prison that is not located in his or her city of residence is an additional sentence, which should be taken into account in the final verdict. In Mr. Sadeghi's case, that additional sentence was not mentioned.

17. According to the source, Mr. Sadeghi is currently being held in Salon 10 of Rajai Shahr Prison. His health is very fragile due to a hunger strike. He has lost 22 kg and currently weighs only 48 kg. He cannot eat solid food. In March 2016, doctors recommended protein injections, but Mr. Sadeghi has not yet received them. Furthermore, he has not received any other medical treatment and his family was told to provide his medication. The authorities rejected an application for Mr. Sadeghi's release on medical furlough. Salon 10 of Rajai Shahr Prison does not have a heating system or running hot water. Detainees have to cover themselves with carpets, and heat water in order to wash themselves. The facility does not have a refrigerator and detainees are not given meat at mealtimes.

18. Since his transfer to Rajai Shahr Prison, Mr. Sadeghi has not been allowed to visit his wife, who also remains in detention. He was allowed to do so during the last months of his detention in Evin Prison.

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[1] According to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, the evidence presented to support the charges against Mr. Sadeghi had consisted of printed copies of his social media messages and emails to journalists and human rights activists abroad. See A/HRC/34/65, para. 56.

[2] On 7 June 2016, Mr. Sadeghi visited the prison to enquire about the official start date of his term of imprisonment and was immediately detained and forced to begin his prison sentence. Mr. Sadeghi had not received the summons and wanted to prevent an unannounced raid on his home as had happened in the past. This information is found in a joint urgent appeal addressed to the Government, available at https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=3251.

19. The source submits that Mr. Sadeghi has been sentenced for exercising his rights to freedom of expression and peaceful assembly.

Communications from special procedure mandate holders

20. Mr. Sadeghi has previously been the subject of four joint urgent appeals addressed to the Government by various special procedure mandate holders, including the Working Group on Arbitrary Detention, on 16 February 2012, 22 July 2016, 27 October 2016 and 23 March 2017.[3] The Working Group acknowledges the responses received from the Government on 29 December 2016 and 11 July 2017 in relation to three of those communications.[4]

21. The special procedure mandate holders requested the Government to comment upon numerous allegations, including that Mr. Sadeghi's combined 19-year prison sentence does not take into consideration article 134 of the Islamic Penal Code in order to limit his prison term to the longest sentence for the most serious charge. In its responses, the Government confirmed that article 134 is applicable to Mr. Sadeghi's case, meaning that he is required to serve a maximum sentence of seven and a half years, and is eligible for release on 21 April 2023. The Government also noted in its responses that Mr. Sadeghi receives visits from his family.

Response from the Government to the regular communication

22. On 11 December 2017, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure. The Working Group requested the Government to provide detailed information, by 12 February 2018, on Mr. Sadeghi's current situation. The Working Group also requested the Government to clarify the legal provisions justifying his detention, and their compatibility with the obligations of the Islamic Republic of Iran under international human rights law. Moreover, the Working Group called upon the Government to ensure the physical and mental integrity of Mr. Sadeghi.

23. On 18 December 2017, the Government requested an extension of the deadline for reply. The extension was granted, with a new deadline set at 12 March 2018. The Working Group regrets that, despite that extension, the Government did not submit any information in response to the regular communication. Although not obliged to do so, the Working Group has decided to take into account the information received from the Government in response to the above-mentioned joint urgent appeals.[5]

Discussion

24. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

25. In determining whether Mr. Sadeghi's deprivation of liberty is arbitrary, the Working Group has regard to the principles established in its jurisprudence regarding evidentiary issues. If the source has presented a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to

[3] Available at https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=19675, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=3251, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=22820, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23034.

[4] Available at https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=76385, and https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=7653.

[5] According to paragraph 16 of its methods of work, the Working Group may render an opinion on the basis of all the information it has obtained. In the present case, in order to give the Government every opportunity to respond to the source's allegations, the Working Group has exercised its discretion to take into account the information submitted by the Government in response to the joint urgent appeals. See also opinions No. 79/2017 and No. 48/2016, in which the Working Group took a similar approach.

rest upon the Government if it wishes to refute the allegations. The Government can meet that burden of proof by producing documentary evidence in support of its claims.[6] Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations (see A/HRC/19/57, para. 68).

26. The source alleges that Mr. Sadeghi has been deprived of his liberty solely for peacefully exercising his rights to freedom of expression and assembly under articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 and 21 of the Covenant.

27. Given that the Government did not reply to the regular communication, the Working Group has considered other reliable information that supports the source's claims, particularly its previous opinions concerning arbitrary arrests and detention in the Islamic Republic of Iran.[7] In these cases, findings have been made about the arbitrary deprivation of liberty of individuals who had peacefully exercised their rights under the Universal Declaration of Human Rights and the Covenant, demonstrating that this is a systemic problem in the administration of criminal justice in the Islamic Republic of Iran.

28. The Secretary-General and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran have also expressed concern about the detention of individuals in the Islamic Republic of Iran for exercising their rights to freedom of expression and peaceful assembly, including with reference to the specific situation of Mr. Sadeghi.[8] Moreover, the Special Rapporteur called upon the Government to immediately and unconditionally release all those who had been arbitrarily arrested, detained and prosecuted for exercising their rights to freedom of opinion and expression, specifically stating that both Mr. Sadeghi and his wife were human rights defenders who had been imprisoned for peacefully exercising their rights to freedom of expression and association. The Special Rapporteur said that she was deeply concerned about the continuous detention of human rights defenders in the Islamic Republic of Iran, who had been tried on the basis of vaguely defined offences and had received heavy sentences following trials marred by due process violations. Such defenders were left with no other option but to put their lives at risk through hunger strikes to contest the legality of their detention.[9] The Working Group also takes note of the four joint urgent appeals issued in relation to the situation of Mr. Sadeghi between 2012 and 2017.

29. In addition, there is widespread concern among States Members of the United Nations about the application of criminal law in the Islamic Republic of Iran to restrict the exercise of human rights. That concern is reflected in at least 15 of the recommendations contained in the 2014 report of the Working Group on the Universal Periodic Review on the Islamic Republic of Iran, which relate to the detention of individuals for the peaceful exercise of the freedoms of expression, assembly and association.[10] Moreover, the General Assembly has urged the Islamic Republic of Iran to end widespread and serious restrictions,

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[6] See opinion No. 41/2013, in which it is noted that the source of a communication and the Government do not always have equal access to the evidence, and frequently the Government alone has the relevant information. In that case, the Working Group recalled that, where it is alleged that a person has not been afforded, by a public authority, certain procedural guarantees to which he or she was entitled, the burden to prove the negative fact asserted by the applicant is on the public authority, because the latter is "generally able to demonstrate that it has followed the appropriate procedures and applied the guarantees required by law ... by producing documentary evidence of the actions that were carried out": *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010*, p. 639, at p. 661, para. 55.

[7] See, e.g., opinions Nos. 48/2017, 9/2017, 25/2016, 2/2016, 1/2016, 44/2015, 16/2015, 55/2013, 52/2013, 18/2013, 54/2012, 48/2012, 30/2012, 58/2011, 21/2011, 20/2011, 8/2010, 6/2009, 39/2008, 34/2008, 26/2006, 19/2006, 8/2003, 30/2001, 39/2000, 14/1996, 28/1994 and 1/1992.

[8] See, e.g., A/HRC/37/24, para. 40; A/72/562, paras. 46 and 49; A/72/322, para. 35; A/HRC/34/65, para. 56; and A/HRC/34/40, para. 61.

[9] See Office of the United Nations High Commissioner for Human Rights, "Iran: "Prisoners of conscience at risk of dying after prolonged hunger strike" – UN expert warns" (9 January 2017). Available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21071.

[10] See A/HRC/28/12, paras. 138.184, 138.222–227 and 138.230–237.

in law and in practice, on the right to freedom of expression, opinion, association and peaceful assembly, and to release persons arbitrarily detained for the legitimate exercise of those rights.[11]

30. According to the source, Mr. Sadeghi was convicted and sentenced to 15 years' imprisonment under the following provisions:[12]

(a) Article 500 of the Islamic Penal Code, according to which anyone who engages in any type of propaganda against the Islamic Republic of Iran or in support of opposition groups and associations is to be sentenced to three months to one year of imprisonment;

(b) Article 514 of the Islamic Penal Code, according to which anyone who, in any manner, insults the founder of the Islamic Republic or the Supreme Leader, shall be sentenced to imprisonment of between six months and two years;

(c) Article 610 of the Islamic Penal Code, according to which when two or more individuals collude and conspire to commit crimes against the national or foreign security of the country or prepare the facilities to commit the aforementioned crimes, unless they are regarded as *mohareb* [engaging in war against God and the State], they shall be sentenced to two to five years' imprisonment;

(d) Article 18 of the Cyber Crime Law, according to which any person who uses computer and telecommunication systems to publish, or share publicly by other means, lies and libellous material, with the intention of harming another person, or agitating and upsetting the minds of people or State officials; or anyone, who, with the same intentions as the above-mentioned ones, attributes some statements and conducts falsely and in a manner contrary to the actual events, either independently or indirectly and by quoting third parties, regardless of whether or not these actions inflict material losses on others, or damage their reputation and character, then in addition to the damages they have to pay to restore someone's loss of reputation (if needed), they will be sentenced to a prison term ranging from 91 days to two years, or to a cash fine of 5 million to 40 million Iranian rials, or both.

31. In the present case, the Government did not submit any evidence that Mr. Sadeghi's activism and participation in protests involved violence of any kind. On the contrary, Mr. Sadeghi was arrested on 15 January 2012 for following up on his complaint about his mother's violent death, which allegedly occurred at the hands of the security forces.[13] In the absence of such information, Mr. Sadeghi's convictions under the above-mentioned provisions of the Islamic Penal Code cannot be regarded as being consistent with the Universal Declaration of Human Rights or the Covenant. There is nothing to suggest that the permissible restrictions under articles 19 (3) and 21 of the Covenant would apply in the present case. Moreover, as the Human Rights Committee has stated in paragraph 47 of its general comment No. 34 (2011) on the freedoms of opinion and expression, imprisonment is never an appropriate penalty in defamation cases, including the punishment provided under article 18 of the Cyber Crime Law.

32. The Working Group concludes that Mr. Sadeghi has been deprived of his liberty as a result of the peaceful exercise of his rights to freedom of expression and assembly under articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 and 21 of the Covenant. His deprivation of liberty is therefore arbitrary under category II.

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[11] See General Assembly resolution 71/204, para. 13.

[12] The information provided by the source indicates that Mr. Sadeghi was sentenced to a longer period of imprisonment than the maximum penalty under each of these provisions (see para. 12 above). If this information is correct, that situation should have been corrected on appeal. The Government's responses to the joint urgent appeals suggest that the information may be correct. The source did not raise this point in its submissions to the Working Group. If Mr. Sadeghi serves a longer sentence for each offence than that provided for by law, his detention will have no legal basis according to category I.

[13] While the source did not raise this point, the Working Group considers that it is unlikely that there was a legal basis for this arrest and detention from 15 January 2012 to 12 October 2013, as it appears to have related solely to Mr. Sadeghi's attempt to pursue his complaint about his mother's death.

33. The Working Group considers that the above-mentioned provisions of the Islamic Penal Code are so vague and broad that they could, as in the present case, result in penalties being imposed on individuals who had merely exercised their rights under international law. As the Working Group has previously stated, the principle of legality requires that laws be formulated with sufficient precision so that the individual can access and understand the law, and regulate his or her conduct accordingly.[14] In the present case, the application of vague and overly broad provisions adds weight to the Working Group's conclusion that Mr. Sadeghi's deprivation of liberty falls within category II. Moreover, the Working Group considers that, in some circumstances, laws may be so vague and overly broad that it is impossible to invoke a legal basis justifying the deprivation of liberty.

34. Given its finding that the deprivation of liberty of Mr. Sadeghi was arbitrary under category II, the Working Group wishes to emphasize that no trial of Mr. Sadeghi should have taken place. However, Mr. Sadeghi was tried by Branch 15 of the Revolutionary Court in May 2015 and on 21 July 2015, and the Working Group considers that his right to a fair trial was violated during that trial and during his subsequent appeal on 22 December 2015. The Working Group considers that the Revolutionary Courts that tried Mr. Sadeghi and heard his appeal do not meet the standards of an independent and impartial tribunal under article 14 (1) of the Covenant.[15]

35. The source alleges that Mr. Sadeghi did not have access to legal assistance during his first trial in 2010 (which resulted in a four-year suspended sentence that Mr. Sadeghi is now required to serve), and during his trial in May and July 2015. Mr. Sadeghi's lawyer contacted the presiding judge on several occasions during the second trial, and requested to see his client's file. However, all his requests were repeatedly denied and he was not allowed to be present at the trial hearings. The absence of legal assistance at both trials constitutes a violation of Mr. Sadeghi's rights under article 14 (3) (b) and (d) of the Covenant. According to principles 16, 19 and 21 of the Basic Principles on the Role of Lawyers, the Government was obliged to ensure that Mr. Sadeghi's lawyer could perform his professional functions without improper interference, including appearing before the court during the second trial, and that he had access to Mr. Sadeghi's file in order to provide effective legal assistance in that matter. The Government failed to meet those obligations.

36. The source also alleges, and the Government has not contested, that Mr. Sadeghi was held in solitary confinement for over six months following his arrest on 6 September 2014. The imposition of prolonged solitary confinement in excess of 15 consecutive days is prohibited under rules 43 (1) (b), 44 and 45 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Moreover, the authorities have violated Mr. Sadeghi's right to contact with the outside world in failing to inform Mr. Sadeghi's family for 18 months of his arrest on 15 January 2012 (in a situation that appears to have been akin to incommunicado detention), in failing to allow Mr. Sadeghi to meet with his wife, who is also detained, and in transferring Mr. Sadeghi to another prison outside Tehran and away from his home and family. These actions constitute violations of rules 43 (3), 58 and 59 of the Nelson Mandela Rules, and principles 15, 16 (1), 19 and 20 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Finally, given the allegations that Mr. Sadeghi has been tortured and ill-treated by the authorities,[16] the Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

37. The Working Group concludes that these violations of the right to a fair trial are of such gravity as to give the deprivation of liberty of Mr. Sadeghi an arbitrary character

[14] See, e.g., opinion No. 41/2017, paras. 98–101.

[15] See E/CN.4/2004/3/Add.2, para. 65. The Working Group considers that this finding regarding the Revolutionary Courts remains current.

[16] This includes the alleged failure to ensure that Mr. Sadeghi received urgently needed medical treatment, discussed further below, and placing him in a cell where he could hear the interrogation of his wife.

according to category III. Given the serious allegations in the present case, the Working Group also refers this matter to the Special Rapporteur on the Islamic Republic of Iran.

38. In addition, the Working Group considers that Mr. Sadeghi was targeted because of his activities as a human rights defender. He has been repeatedly arrested and detained for his participation in peaceful protests in defence of human rights in the Islamic Republic of Iran and for his activism. Accordingly, the Working Group finds that Mr. Sadeghi was deprived of his liberty on discriminatory grounds, that is, due to his status as a human rights defender, in violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant. His deprivation of liberty is arbitrary according to category V. The Working Group refers the present case to the Special Rapporteur on the situation of human rights defenders for further consideration.

39. The Working Group wishes to express its grave concern regarding Mr. Sadeghi's physical and mental health. The source reports that Mr. Sadeghi's health is in a very fragile state and that he has lost a substantial amount of weight. He is unable to eat solid food, and has not received protein injections that were recommended by his doctors and that can only be administered in a hospital outside his prison. Furthermore, he has not received any other medical treatment and his family was told to provide his medication. The authorities rejected an application to release Mr. Sadeghi on medical leave. The conditions in which he is being detained at Rajai Shahr Prison are not conducive to good health, as there is no heating system, running hot water or refrigeration for food. The Government stated in its responses to the joint urgent appeals that Mr. Sadeghi was in good health and that, according to the prison's physician, his general condition was normal. While these responses were provided by the Government over nine months ago, the Government could have provided updated medical records from independent physicians in support of its claims, but did not do so.

40. According to article 10 (1) of the Covenant and rules 1, 24 and 27 (1) of the Nelson Mandela Rules, all persons deprived of their liberty must be treated with humanity and with respect for their inherent dignity, including enjoying the same standards of health care that are available in the community. In particular, rule 27 (1) requires that all prisons ensure prompt access to medical attention in urgent cases, and that prisoners who require specialized treatment or surgery be transferred to specialized institutions or to civil hospitals. Mr. Sadeghi has now served almost two years of his current sentence of imprisonment, which began on 7 June 2016, having been arrested no fewer than six times since 2009 for exercising his rights under international human rights law. The Working Group calls on the Government to immediately and unconditionally release Mr. Sadeghi, and to ensure that he is transferred to a hospital as a matter of urgency to receive medical treatment.

41. The present case is one of several brought before the Working Group in the past five years concerning the arbitrary deprivation of liberty of persons in the Islamic Republic of Iran.[17] The Working Group recalls that under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty, in violation of fundamental rules of international law, may constitute crimes against humanity.[18] The Working Group would welcome the opportunity to engage constructively with the Government to address issues such as the use of imprecise provisions of the Islamic Penal Code to prosecute individuals for the peaceful exercise of their rights, a practice that continues to result in the arbitrary deprivation of liberty in the Islamic Republic of Iran.

42. The Working Group would also welcome the opportunity to conduct a country visit to the Islamic Republic of Iran. Given that a significant period of time has passed since its most recent visit to the Islamic Republic of Iran in February 2003, the Working Group considers that now is an appropriate time to conduct another visit. The Working Group notes that the Government issued a standing invitation to all thematic special procedure

[17] See, e.g., opinions Nos. 92/2017, 49/2017, 48/2017, 9/2017, 7/2017, 50/2016, 28/2016, 25/2016, 2/2016, 1/2016, 44/2015, 16/2015, 55/2013, 52/2013, 28/2013 and 18/2013.

[18] See, e.g., opinion No. 47/2012, para. 22.

mandate holders on 24 July 2002, and looks forward to a positive response from the Government to its country visit request made on 10 August 2016.

43. Given that the human rights record of the Islamic Republic of Iran will be subject to review during the third cycle of the universal periodic review in November 2019, an opportunity exists for the Government to enhance its cooperation with the special procedures and to bring its laws into conformity with international human rights law.

Disposition

44. In the light of the foregoing, the Working Group renders the following opinion:

> The deprivation of liberty of Arash Sadeghi, being in contravention of articles 2, 7, 9, 10, 11 (1), 19 and 20 of the Universal Declaration of Human Rights and of articles 2 (1), 9, 14, 19, 21 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories II, III and V.

45. The Working Group requests the Government of the Islamic Republic of Iran to take the steps necessary to remedy the situation of Mr. Sadeghi without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

46. The Working Group considers that, taking into account all the circumstances of the case, in particular the risk of harm to Mr. Sadeghi's health, the appropriate remedy would be to release Mr. Sadeghi immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

47. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of Mr. Sadeghi's liberty, including his numerous arrests on past occasions, and to take appropriate measures against those responsible for the violation of his rights.

48. The Working Group requests the Government to bring its laws, particularly articles 500, 514 and 610 of the Islamic Penal Code and article 18 of the Cyber Crime Law, into conformity with the recommendations made in the present opinion and with the commitments made by the Islamic Republic of Iran under international human rights law.

49. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to: (a) the Special Rapporteur on torture; (b) the Special Rapporteur on the Islamic Republic of Iran; and (c) the Special Rapporteur on human rights defenders, for appropriate action.

50. The Working Group encourages the Government to incorporate the Model Law for the Recognition and Protection of Human Rights Defenders into its domestic legislation and to ensure its implementation.[19]

Follow-up procedure

51. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether Mr. Sadeghi has been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to Mr. Sadeghi;

(c) Whether an investigation has been conducted into the violation of Mr. Sadeghi's rights and, if so, the outcome of the investigation;

[19] The Model Law was developed in consultation with more than 500 human rights defenders from around the world and 27 human rights experts. Available at www.ishr.ch/sites/default/files/documents/model_law_full_digital_updated_15june2016.pdf.

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the Islamic Republic of Iran with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

52. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

53. The Working Group requests the source and the Government to provide the above information within six months of the date of the transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

54. The Government should disseminate through all available means the present opinion among all stakeholders.

55. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.[20]

[*Adopted on 20 April 2018*]

[20] See Human Rights Council resolution 33/30, paras. 3 and 7.